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February 3, 2025

VIA ECF

The Honorable Victoria Reznik
The Hon. Charles L. Brieant Jr.
Federal Building and United States Courthouse
300 Quarropas St., Courtroom 420
White Plains, NY 10601-4150

Re: *The Wave Studio, LLC v. Priceline.com LLC*, Case No. 7:15-cv-06995
The Wave Studio, LLC v. Hotels Combined LLC, Case No. 7:15-cv-07950
The Wave Studio, LLC v. Booking Holdings Inc., Case No. 7:21-cv-02691
The Wave Studio, LLC v. Southwest Airlines Co., Case No. 7:22-cv-05141

Opposition to Plaintiff's Eleventh-Hour Request for Additional Time

Dear Magistrate Judge Reznik:

We write to oppose Plaintiff's improper request for two weeks to "evaluate whether we will ask this Court for leave to amend – or seek the discovery." ECF 428.¹

Your Honor will recall that, in accordance with Your Honor's timeline for early motions, our clients served their Motion to Dismiss on December 6, 2024. On December 20, 2024, Plaintiff served sweeping requests for discovery, contending the discovery was necessary to respond to the Motion to Dismiss. ECF 422. On Friday, January 24, 2025, defendants opposed Plaintiff's requests. ECF 426. On Monday, January 27, 2025, Your Honor ordered Plaintiff to submit a reply by Friday, January 31, 2025. ECF 427. Instead of complying with Your Honor's order, Plaintiff on January 31, 2025, filed a request for extra time (ECF 428) on specious grounds and in violation of Your Honor's rules (Rule 2.E, Individual Practices of Magistrate Judge Victoria Reznik) and Local Rule 7.1.

The parties have not been "engaged in negotiations," as Plaintiff asserts. ECF 428. Rather, on Thursday, January 30, Plaintiff's counsel called the undersigned, stating that Plaintiff would withdraw its discovery requests in their entirety if our clients stipulated to Plaintiff's filing of an amended complaint. Plaintiff's counsel said Plaintiff would not agree to forego discovery in response to a motion to dismiss that further amended complaint. Plaintiff's counsel did not disclose that Plaintiff

¹ We write on behalf of our clients Booking Holdings Inc., Agoda Company Pte. Ltd., AGIP LLC, Booking.com BV, Booking.com (USA) Inc., Rocket Travel, Inc., Momondo A/S, Priceline.com LLC, Hotels Combined LLC, and Southwest Airlines Co. (the "BHI Moving Defendants").

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would be seeking an extension of time to contemplate its next move. On Friday, January 31, the undersigned advised Plaintiff via email:

The defendants decline plaintiff's request for a stipulation for plaintiff to file another amended complaint in exchange for plaintiff's withdrawal of its requests for discovery. Plaintiff's eleventh-hour proposal confirms that it does not require discovery from defendants. Plaintiff's request for yet another chance to amend its claims is also contrary to Judge Seibel's order at the conference in November 2023 and will only serve to further delay the case and cause defendants to incur additional expense, particularly as plaintiff is unwilling to forego discovery if defendants file another motion to dismiss.

Plaintiff has admitted that it does not require discovery to respond to the Motion to Dismiss. Plaintiff has not explained why it did not plead all necessary facts in its Master Complaint, per Judge Seibel's order, nor how it could cure the fatal defects addressed in our clients' Motion to Dismiss. Plaintiff has been aware of our clients' basis for seeking dismissal at least since the mediation in July 2024. The time for Plaintiff to have considered whether it would seek leave to amend has long past. Plaintiff should be required to respond to the Motion to Dismiss, without discovery.

We thank Your Honor for your time and consideration.

Respectfully Submitted,

/s/ Carla B. Oakley
Carla B. Oakley

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Company Pte. Ltd., AGIP LLC, Booking.com BV,
Booking.com (USA) Inc., Rocket Travel, Inc.,
Momondo A/S, Priceline.com LLC, Hotels
Combined LLC and Southwest Airlines Co.*